



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20350-1000

SECNAVINST 7000.26A

NAVCOMPT: NCB-512

11 December 1990

SECNAV INSTRUCTION 7000.26A

From: Secretary of the Navy

Subj: RECOUPMENT OF NONRECURRING COSTS ON SALES OF U.S. PRODUCTS AND TECHNOLOGY

Ref: (a) DoD 7290.3-M, Foreign Military Sales Financial Management Manual of Sep 86 (NOTAL)  
(b) NAVCOMPT Manual, paragraph 032103-9  
(c) Defense Acquisition Circular Number 88-5, 1 Mar 89 (NOTAL)  
(d) DoD 5105.38-M, Security Assistance Management Manual of Oct 89, Subparagraph 130705.D6

(R)

Encl: (1) DoD Directive 2140.2 of 5 Aug 85 with Change 1 incorporated  
(2) Action Responsibilities of Department of the Navy Organizations

1. Purpose. To reissue the implementation of the Department of Defense (DOD) guidance on recoupment of nonrecurring costs (NC) on sales of U.S. products and technology (enclosure (1)) in the Department of the Navy by assigning action responsibilities to appropriate organizations (enclosure (2)).

2. Cancellation. SECNAVINST 7000.26.

3. Background. It is DOD policy to recover an appropriate share of U.S. Government research and development and production investment costs on sales of items to non-U.S. Government customers and in cases of non-governmental use of Defense-developed technology. Procedures are also provided for the waiver or reduction of the NC charge in certain cases, and reporting of recoveries of the NC.

4. Policy

a. NC charges on Department of the Navy foreign military sales (FMS) cases are to be established per this instruction, and applied following guidance in references (a) and (b).

b. For commercial transactions, contractors are required to notify the Department of the Navy of sales of items, including commercial derivative items, for which the NC charge is applicable and to pay the applicable charges, per the contract clause contained in reference (c). This clause is required to be included in all DOD contracts for research, development, test and evaluation (RDT&E) and production of \$1 million or more.



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c. As necessary, Department of the Navy commands and other organizations may develop and issue detailed implementing guidance in a directive, providing it is consistent with this instruction and a copy is provided to the Assistant Secretary of the Navy (Financial Management) (Attention: Comptroller of the Navy (NCB-5)).

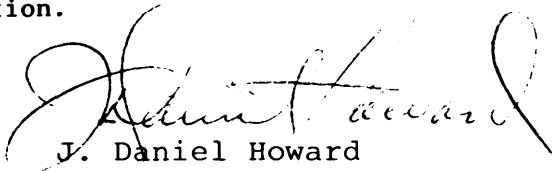
d. Significant problems and questions on policy and procedures covered by this instruction should be referred to the Comptroller of the Navy.

5. Action

R) a. Per reference (d), the Navy International Programs Office (Navy IPO) shall ensure that there is in place an operative system for assessment, monitoring, collection and reporting of recoupments on those direct commercial sales for which the Department of the Navy has contracting or contract administration responsibilities.

b. Department of Navy organizations will take action to perform the assigned functions listed in enclosure (2). These action responsibilities are cross-referenced to the basic guidance which is contained in enclosure (1).

6. Report. Report Control Symbol DSAA(Q)1112(7000), Recoupment of Nonrecurring Costs on Sales of U.S. Government Items and Technology, is approved for 3 years only from the date of this instruction.



J. Daniel Howard

Under Secretary of the Navy

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# Department of Defense DIRECTIVE

SECNAVINST 7000.26 A

11 DEC 1990

August 5, 1985

NUMBER 2140.2 w CH-1 inc

ASD(C)

SUBJECT: Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology

- References:
- (a) DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of USG Products and Technology," January 5, 1977 (hereby canceled)
  - (b) Public Law 90-629, "Arms Export Control Act," October 22, 1968, as amended
  - (c) Council on International Economic Policy Decision Memorandum No. 23, "R&D Recoupment," August 2, 1974
  - (d) Department of Defense Federal Acquisition Regulation (FAR) Supplement
  - (e) Defense Acquisition Regulation (DAR)
  - (f) DoD 7290.3-M, "Foreign Military Sales Financial Management Manual," June 1981

## A. REISSUANCE AND PURPOSE

This Directive reissues reference (a), establishes policy to conform with references (b) and (c) for calculating and assessing nonrecurring cost (NC) recoupment charges on sales of DoD-developed items and technology to non-U.S. Government (USG) customers, assigns responsibilities, and prescribes procedures to implement established policies.

## B. APPLICABILITY AND SCOPE

1. This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

2. Its provisions shall be applied contractually to DoD contractors and recipients of DoD technical data packages (TDPs) who sell defense articles or technology developed with DoD appropriations or funds (and in special cases, customer funds) or use such technology to manufacture items sold commercially to a foreign government, international organization, foreign commercial firm, domestic organization, or private party.

3. Its provisions do not apply to sales of excess property when accountability has been transferred to property disposal activities and the property is sold in open competition to the highest bidder.

## C. DEFINITIONS

The terms used in this Directive are defined in enclosure 1.

Enclosure (1)

#### D. POLICY

Non-USG purchasers shall pay a fair price, determined in accordance with this Directive; for the values of the DoD nonrecurring investment in the development and production of defense articles and/or development of technology, unless an NC recoupment charge waiver has been approved by the DoD official designated in section G. of this Directive. Approved revised NC recoupment charges shall not be applied retroactively to accepted Foreign Military Sales (FMS) agreements or to direct sales that were entered into before the date of approval of the revised NC recoupment charge. When defense items are sold at a reduced price due to age or condition, the NC recoupment charge shall be reduced by the same percentage reduction.

#### E. RESPONSIBILITIES

1. The Under Secretary of Defense for Research and Engineering (USDR&E) shall monitor and exercise control over NC cost recoupment aspects of domestic commercial sales of DoD-developed items and technology and shall take appropriate action to revise the DoD FAR Supplement (reference (d)) to agree with this Directive.

2. The Under Secretary of Defense for Policy shall monitor the application of this Directive and exercise control over foreign sales of DoD-developed items and technology.

3. The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall provide necessary cost accounting guidance and ensure publication of a listing of DoD-developed items or categories of technology to which NC recoupment charges are applicable.

4. The Director, Defense Security Assistance Agency (DSAA), shall serve as the DoD focal point for review and approval of NC recoupment charges for major defense equipment (MDE) items and for processing NC recoupment charge waiver requests received from foreign countries and international organizations for FMS or direct commercial sales. Notification of approved NC recoupment charges for MDE items shall be provided to the Deputy Assistant Secretary of Defense (Management Systems) (DASD(MS)).

5. The Heads of Military Departments and Defense Agencies shall:

a. Determine the DoD nonrecurring investment in DoD-developed items or technology and perform required pro rata calculations in accordance with cost accounting guidance from the ASD(C).

b. Validate and provide recommended charges for MDE items to DSAA.

c. Determine the appropriate charges for non-MDE articles and technology.

d. Provide the approved non-MDE item and technology charges to the DASD(MS).

e. Insert prescribed reference (d) clauses in contracts.

- f. Enforce the application of the aforementioned clauses.
- g. Deposit collections to accounts prescribed by the ASD(C).
- h. Submit quarterly reports of anticipated and actual NC recoupment charge collections to the DSAA.

6. The Director, Defense Contract Audit Agency (DCAA), shall ensure that any evaluation of a contractor accounting system includes an analysis of the internal controls established to ensure compliance with the requirement to pay NC recoupment charges. If DCAA audit work on a bid proposal, claim for incurred costs, etc., discloses contractor noncompliance with the requirement to pay an NC recoupment charge, an audit report shall be issued promptly to the cognizant DoD contracting officer, with a copy of the report submitted to the DASD(MS).

#### F. PROCEDURES

All DoD Components shall follow the implementing procedures contained in enclosure 2.

#### G. WAIVERS (INCLUDING REDUCTIONS)

1. The Arms Export Control Act (reference (b)) requires the recoupment of a proportionate amount of nonrecurring costs of MDE from FMS customers but authorizes consideration of reductions or waivers for particular sales which, if made, significantly advance USG interests in North Atlantic Treaty Organization standardization or standardization with the Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries. Waiver for direct commercial sales and for non-MDE items under FMS shall be based upon the same considerations.

2. Requests for waivers of NC recoupment charges for eligible countries for sales of DoD-developed items under the FMS program or on direct commercial sales to foreign governments and international organizations shall be submitted to the Director, DSAA.

a. Requests should originate with the foreign government and shall provide information regarding the extent of standardization to be derived as a result of the waiver and other benefits that would accrue to the USG as a result of the sale. The request shall contain a summary statement of the facts regarding the program, benefits expected and justification therefor, and any calculations necessary to quantify the waiver and the benefits to the USG.

b. Blanket waiver requests shall not be submitted nor considered. The term "blanket waiver" refers to an NC recoupment charge waiver that is not related to a particular sale; for example, waivers for all sales to a country or all sales of a weapon system.

c. A waiver request shall not be approved for a sale that was accepted without an NC recoupment charge waiver, unless the acceptance was conditional upon approval of the waiver. A waiver shall not be granted in connection with a direct commercial sale if such a waiver could not have been granted legally

in connection with a sale made under the FMS program. Any waiver approved for a direct commercial sale requires a certification by the contractor that reductions have been passed on to the customer.

3. A DoD Component or defense contractor (vice president or higher) may request waivers of NC recoupment charges for domestic sales of DoD-developed items. Contractor requests shall be submitted through the appropriate contracting officer to the USDR&E. To the extent possible, the request shall provide information regarding the dollar value of the waiver, benefit to be derived by the Department of Defense, the names of foreign and domestic competitors, impact on the USG balance of payments, demonstrable rights of the manufacturer or purchaser, and any other justification for the waiver. Blanket waiver requests for domestic sales are discouraged, but may be granted in extraordinary circumstances.

4. Requests for waivers shall be processed expeditiously, and a decision normally made by the approving authority (see subsection G.6., below) to either approve or disapprove the request within 60 days after receipt. A waiver in whole or in part of the recoupment charge or a denial of the request shall be provided in writing to the appropriate DoD Component before issuance of the FMS agreement or signing of the commercial contract.

5. The decision on any waiver requires the concurrence of the Director, DSAA; the ASD(C); and the USDR&E. If an issue concerning the waiver request cannot be resolved, the normal waiver approval authority shall prepare an action memorandum on the waiver request to the Deputy Secretary of Defense for final determination. The action memorandum to the Deputy Secretary of Defense shall be coordinated with the Director, DSAA; the ASD(C); and the USDR&E.

6. The Director, DSAA, is the waiver approval authority and will state in writing any approvals granted for waivers associated with FMS and direct foreign sales. The USDR&E is the waiver approval authority and will state in writing any approvals granted for waivers involving sales of DoD-developed items and technology to domestic organizations. This authority shall not be redelegated. A notification of each approved waiver will be forwarded to the ASD(C) and to the concerned DoD Components by the approving authority.

#### H. INFORMATION REQUIREMENTS

The record keeping and reporting requirements prescribed in subsection H.2. of enclosure 2 are assigned Reports Control Symbol DSAA(Q)1112.

Aug 5, 85  
2140.2

I. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately for all NC recoupment calculations that have not been approved previously. Forward two copies of implementing documents to the Assistant Secretary of Defense (Comptroller) within 120 days.



William H. Taft, IV  
Deputy Secretary of Defense

Enclosures - 5

1. Definitions
2. Implementing Procedures
3. Format for MDE Calculation
4. Recoupment of Nonrecurring Costs on Sales of MDE Items
5. Recoupment of Nonrecurring Costs on Sales of Products and Technology



## DEFINITIONS

1. Cost Pool. Represents the total cost to be distributed across the specific number of units. The nonrecurring research, development, test, and evaluation (RDT&E) cost pool comprises the costs described in definition 11. The non-recurring production cost pool comprises costs described in definition 10.
2. Direct Sale. A commercial sale to a customer by a defense contractor of products, technology, materiel, services, and development or production techniques that originally were developed, improved, or produced using DoD appropriations or funds.
3. Domestic Organization. Any U.S. non-governmental organization or private commercial firm.
4. Foreign Military Sale (FMS). A sale of defense articles or defense services to a foreign government or international organization under authority of the Arms Export Control Act (reference (b)).
5. Government Sale. A sale of articles or services, or both, to customers by any DoD Component under appropriate statutes.
6. Major Defense Equipment (MDE). Any item of significant combat equipment on the United States Munitions List having a nonrecurring RDT&E cost of more than \$50 million or a total production cost of more than \$200 million.
7. Model. A basic alpha-numeric designation within a weapon system series, such as a ship hull series, an equipment or system series, an airframe series, or a vehicle series. For example, the F5A and the F5F are different models within the same F-5 system series.
8. Non-Major Defense Equipment (Non-MDE). Any item of equipment or component that is not identified as major defense equipment.
9. Non-U.S. Contractor. A contractor or subcontractor organized or existing under the laws of a country other than the United States, its territories, or possessions.
10. Nonrecurring Production Costs. Those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run. These NCs include DoD expenditures for preproduction engineering; rate and special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing, and evaluation. This includes costs of any engineering change proposals initiated before the date of calculations of the NC recoupment charge. Nonrecurring production costs do not include DoD expenditures for machine tools, capital equipment, or facilities for which contractor rental payments are made in accordance with the DAR or DoD FAR Supplement (references (e) and (d), respectively) or asset use charges assessed in accordance with DoD 7290.3-M (reference (f)).

11. Nonrecurring Research, Development, Test, and Evaluation (RDT&E) Costs. Those costs funded by an RDT&E appropriation to develop or improve the product or technology under consideration either through contract or in-house effort. This includes costs of any engineering change proposal initiated before the date of calculation of the NC recoupment charges as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It does not include costs funded by either procurement or operation and maintenance (O&M) appropriations.

12. Pro Rata Recovery of Nonrecurring Costs (NC). Equal distribution (proration) of a pool to a specific number of units that benefit from the investment so that a DoD Component will collect from a customer a fair (pro rata) share of the investment in the product being sold.

13. "Special" RDT&E and Nonrecurring Production Costs. Costs incurred at the request of, or for the benefit of, the customer in developing a special feature or unique requirement. These costs must be paid by the customer as they are incurred.

14. Technology. Information of any kind that can be used or adapted for use in the design, production, manufacture, utilization, or reconstruction of articles or materiel. The data may take a tangible form, such as a scale model, prototype, blueprint, or an operating manual, or may take an intangible form, such as technical advice.

## IMPLEMENTING PROCEDURES

### A. GENERAL

1. Each DoD Component, defense contractor, or recipient of DoD TDP negotiating the sale of items or technology, or both, developed with DoD appropriations or funds shall ensure the assessment of the charges as set forth in this implementing procedure.

2. Each DoD Component shall establish a system to accumulate cost pools, recognize when a cost pool meets recoupment thresholds and calculate an NC recoupment charge for items or technology releasable to foreign countries and international organizations when FMS or direct commercial sales are anticipated. The NC recoupment charge shall be based upon information recorded in DoD accounting records or DoD budget justification documents. Cost estimates may be used to determine the NC expected to be incurred in periods not covered by budget justification documents.

3. The NC recoupment charge computation (nonrecurring RDT&E and nonrecurring production cost pools divided by benefiting units) for the sale of MDE items shall be submitted to the Director, DSAA, for approval. The NC recoupment computation shall be supported with the MDE calculation worksheet illustrated at enclosure 3. A summary report on each MDE item shall be provided to DSAA following the format illustrated at enclosure 4. The Director, DSAA, will review each DoD Component's calculations and provide approved NC recoupment charges for MDE items to the DoD Component and the DASD(MS).

4. Once the approved charge has been used in an authorized sale, the charge normally will not be revised until a model change occurs or a major new development program occurs that changes the operational capability of the end item.

a. Each DoD Component shall review approved MDE charges annually to determine if there has been significant change in factors or assumptions used to compute the NC recoupment charge established for a model (for example, a significant change in identifiable RDT&E costs or the anticipated production run). A significant change occurs when (1) a new calculation shows a change of 30 percent of the current system NC charge for an MDE item or (2) the NC unit charge increases or decreases by \$50,000 or more or (3) where the potential for a \$5 million change in recoupment exists or (4) for ammunition items, the potential exists for additional recoupment of over \$100,000 or more.

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b. When significant changes are identified for MDE and/or when a model change occurs, the DoD Component shall submit a request to the Director, DSAA, for consideration of appropriate changes in future NC recoupment charges. The Director, DSAA, normally shall respond to the request in writing within 60 days after receipt of the request.

5. When a defense contractor negotiates the direct sale of a DoD-developed item or technology, or a derivative of a USG-developed item, he or she shall request the amount of the NC recoupment charge from the Administrative Contracting Officer (ACO) or (for technology sales) the technology charge from the DoD Component responsible for DoD acquisition of the article.

a. When making this request, the contractor shall submit such information as may be necessary to comply with this Directive. If the NC recoupment charge has not been established already, as provided for under this Directive, the ACO shall contact the DoD Component responsible for establishment of the charge and advise the contractor of the estimated date the charge will be made available.

b. Despite the absence of an established charge, the contract shall provide for full recovery of such charge in the amount that is subsequently established. The recovery will be for the total items sold and not merely applied on a prospective basis from the date the charge is established.

6. All DoD contracts for RDT&E or acquisition shall include a mandatory clause that requires the contractor to pay the USG, within 30 days following delivery of each item from the contractor's facility or purchaser's acceptance (whichever comes first), the established NC recoupment charge for any domestic or international direct sale, coproduction, or licensed production of DoD-developed items or technology (see DoD FAR Supplement 25.7306, 35.71, and 52.235-7002, reference (d)).

7. It is mandatory that each DoD Component complete and submit to DSAA for approval, a proposed NC charge not later than 60 days after award of a DoD contract for RDT&E or acquisition whenever there is a potential for commercial sale of an item (see subsection A.5., above). The ACO is responsible for initiating this action into appropriate Military Department channels and for notifying the contractor of the appropriate charge.

8. The cognizant DoD Component shall deposit collections in payment of an NC recoupment charge without delay in the nearest Federal Reserve Bank to accounts prescribed by the ASD(C). Notification of the deposit shall be provided to the DoD Component activity responsible for submission of reports required in subsection H. of this enclosure.

#### B. CALCULATION OF CHARGES ON MDE AND COMPONENTS

MDE items are defined in enclosure 1. The determination of whether an item meets the MDE dollar threshold shall be based on obligations recorded to the date the equipment is offered for sale. Production costs shall include cost incurred for the Department of Defense, FMS, and known direct sales production. For the FMS program, the sales offer date shall be the date a Letter of Offer and Acceptance (LOA) is signed by a U.S. official and released to the FMS customer; for commercial sales, the sales offer date shall be the date of contract signature.

1. NC recoupment charges shall be assessed on a pro rata basis. The
- \* charges shall be established by dividing the total of all applicable NC costs
  - \* including costs of in-house performance or multiple procurements incurred to date plus projections of future costs to be incurred by the total estimated number of units projected to be produced over the life of the system (including DoD requirements, Military Assistance Program (MAP) requirements, FMS requirements, and direct commercial sales requirements). The computation of the cost pool shall exclude costs for those items that are restricted to USG use only

(for example, U.S.-unique nuclear devices, countermeasures, security devices, and aircraft carrier-unique adaptations). All applicable NC efforts including inhouse or multiple contractors shall be included in the NC cost pool. In other words, the source of NC effort to develop a product is not relevant to the calculation of the NC recoupment charge.

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2. The number of units to be produced for DoD shall be obtained from budget backup data. FMS quantity projections and direct commercial sales quantity projections shall be derived jointly as best estimates by the Military Department and DSAA. Defense contractors should be consulted in determining direct commercial sales quantities, if necessary. When disagreement on estimated FMS and direct commercial quantities and sales projections occur, the Director, DSAA, will make the final determination in coordination with the ASD(C) and the USDR&E.

3. For a weapon system that includes more than one component that meets the MDE threshold or contains a component that has application to several weapons systems or a commercial sale potential, hereinafter referred to as a major individual component, a "building block" approach (that is the sum of NC recoupment charges for individual components) shall be used to determine the NC recoupment charge for the sale of the entire system.

a. Data must be accumulated for each major component when NC is identified in accounting records or budget documents. The sum of the various component NC recoupment charges and any remaining NC for the weapon system shall be applied to the sale of a complete system. Individual NC recoupment charges shall be applied to sales of individual components. The format for performing the required calculation is at enclosure 3.

\* b. When a model change occurs, the NC recoupment charge shall be recal-  
\* culated. That portion of the NC which benefits only one model shall be allocated  
\* only to that model, i.e., old or new. That portion of the NC that benefits old  
\* and new models shall be prorated between cost pools related to the old and new  
\* model items. Commonality between old and new models may be determined either  
\* on the basis of the ratio of old model parts in the new item or on some other  
\* commonly acceptable basis for allocation of costs between the models, i.e.,  
\* engineering analysis or technology analysis, as appropriate. Sample calculations  
\* are illustrated at enclosure (6).

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\* c. DoD Components involved with a sale shall ensure that components  
are not purchased separately for ultimate assembly as an end item in an attempt  
to circumvent this Directive.

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4. The established NC recoupment charge shall be included in the FMS unit price or, for commercial sales, provided to the seller, and paid by the seller to the USG.

5. If a commercial item being sold is substantially different (less than 90 percent common) from the USG item for which the NC recoupment charge was developed, the charge shall be assessed based on the extent of commonality with the USG item. For example, if the commercial item is 25 percent common with the DoD item, then only 25 percent of the established NC recoupment charge for the DoD item shall be assessed. The DoD Component office with system engineering responsibility for the item shall be responsible for determining the degree of such commonality.

a. The cognizant DoD contract administrative office shall request DCAA to review contractor accounting records to ensure that the commercial item was not fully or partly funded by charges against DoD contracts.

b. The contract administration office shall provide its calculations and rationale to DSAA for review and approval. Upon receipt of the DSAA approval, the DoD Component shall notify the contractor in writing of the applicable derivative NC recoupment charge.

6. If records necessary to enable a pro rata NC calculation have been lost or destroyed for particular MDE items in which the USG has an NC investment, the DoD Component (Assistant Secretary or a designee) shall certify that the records have been lost or destroyed and shall determine a unit NC recoupment charge equal to 4 percent of the most recent USG contract price. The certification of lost or destroyed documents and recommended fixed charge per unit shall be forwarded to the Director, DSAA, for approval. The Director, DSAA, shall then establish a fixed unit NC recoupment charge for all subsequent sales.

### C. CALCULATION OF CHARGES ON NON-MAJOR DEFENSE EQUIPMENT

NC recoupment charges on Non-MDE shall be established in accordance with procedures set forth in this subsection. Once established, the charge normally shall not be revised unless the item subsequently qualifies as an MDE item. When a non-MDE item becomes an MDE item, a new NC recoupment charge shall be established using MDE procedures. The DoD Components shall provide established charges for non-MDE to the DASD(MS) for publication in a document that is readily accessible by DoD Components, contractors, and the public.

1. Components of MDE Items. The pro rata amount, as determined through use of the building block approach, required by in subsection B.3., above, shall be assessed whenever a major component is sold. There shall be no charge on sales of other components because applicable NC recoupment charges are recovered on MDE item sales.

2. Non-MDE End Items. A percentage NC recoupment charge shall be assessed on non-MDE end items whenever \$2 million of RDT&E funded cost has been or is expected to be incurred on the item. The applicable surcharge shall be 5 percent of the item's current DoD inventory price.

#### 3. Modification Kits

a. Developed to Provide an End Item With New or Improved Capability. An NC percentage charge shall be made whenever \$2 million of RDT&E, procurement, or O&M funds have been expended on engineering, development, or testing of the kit. The applicable surcharge shall be 5 percent of the selling price of modification kits transferred under the FMS program or sold commercially by U.S. contractors.

b. Developed to Improve the Safety, Reliability, Availability, and Maintainability. The costs of improvement programs that are designed to continuously improve the safety, reliability, availability, and maintainability of an end item or major component over the projected life of the item will be shared equitably by all users of the item. Normally, each user will pay a share of the total annual cost through a Component Improvement Program (CIP) or comparable program. All users are expected to participate in such programs. However, if a user does not participate in a CIP or comparable program, the user will pay an appropriate share of the development costs for any modification purchased after delivery of the system. The calculation of these charges is as follows:

(1) New items. For new items entering the system, the cost sharing calculation will be established at the time the NC cost pool is established and the NC recoupment charge is approved. First, the total life of the item will be projected, then the point in time when half of all projected deliveries to non-DoD customers will occur will be estimated. Using actual cost data and data from historical files for similar CIP or comparable programs, the total U.S. investment costs over the life of the program will be estimated. The amount of U.S. investment projected to be incurred up to the previously determined point of half of the deliveries to non-DoD customers will be included in the weapon system NC cost pool. The annual cost of operating the CIP or comparable program will be shared in proportion to the number of items in the possession of each user. This will ensure that the remaining costs of operating the CIP or comparable program will be shared equally by all users of the item.

(2) Existing Items/Improved Items. For items already in the inventory that have established NC pro rata charges, or for improved items that meet the criteria for NC pro rata charge revision, all U.S. investment costs incurred before the date of calculation of the revised NC recoupment charge will be included in the NC cost pool. Additionally, all users shall be required to pay on an annual basis in proportion to the number of existing items for participation in the program.

(3) Modification Kits. Modification kits designed to improve safety, reliability, availability, and maintainability are issued to FMS customers and incorporated into end item/major components without the additional NC recoupment charge because the applicable development cost is either included in the end item/major component NC recoupment charge or recouped as CIP or comparable program charges on the end item or major components. In exceptional circumstances when a user does not participate in the CIP or comparable program, the user shall be assessed an NC charge for any modifications purchased after delivery of the systems. This charge shall be based on 5 percent of the acquisition cost of each modification kit.

4. Components of Non-MDE End Items. A percentage NC recoupment charge shall be made on any non-MDE item component whenever \$2 million of RDT&E appropriations has been or is expected to be expended on the component. The applicable charge shall be 5 percent of the component's current FMS selling price for components transferred under the FMS program or sold commercially by a U.S. contractor.

#### D. CALCULATION OF CHARGES FOR TECHNOLOGY SALES

The procedures for the calculation of charges after receipt of authorization to release technology are as follows:

##### 1. Technical Data Packages

a. An NC recoupment charge shall be assessed for the transfer and use of TDPs to be used to manufacture or produce items for non-USG use. This charge is in addition to normal costs associated with reproduction and shipping of TDPs. Charges for the use of TDPs normally are referred to as royalty fees. However, for MDE items, the approved MDE NC recoupment charge shall be assessed for each item manufactured or coproduced in place of a royalty fee.

b. For a non-MDE item, an NC percentage surcharge shall be applied as the royalty fee on the basis of the item's current DoD inventory price. Prescribed charges for non-MDE items are as follows:

(1) Foreign Governments and non-U.S. contractors - 5 percent on items manufactured for in-country use and 8 percent on items manufactured for third party use by or on behalf of foreign governments or international organizations.

(2) U.S. Contractors - 3 percent on items manufactured for consumption in the U.S. and 5 percent on items manufactured for export.

c. The above charges will be deemed necessary to constitute the "fair market price" for U.S. technology.

d. A TDP developed with USG funds shall not be released to any non-USG parties, including contractors, unless the recipient has agreed in writing to pay the applicable charges prescribed by this Directive and to pay applicable charges within 30 days after manufacture of applicable items.

2. Software. A charge shall be made for sales of software whenever \$2 million or more has been, or is expected to be, expended by the DoD Component to develop the software regardless of appropriation account. The charge shall be a pro rata charge. The numerator shall be the cost incurred by the DoD Component. The denominator shall be either the number of weapons systems to be supported by the software package or the number of software packages to be duplicated, whichever is the most equitable in the opinion of the DoD Component.

3. Other Technology Transfers. For all other technology transfers, including transfers of TDPs for purposes other than manufacturing, and all transfers of industrial or manufacturing processes, the amount of the charge shall equal the fair market value of the technology involved. For transfers to any U.S. domestic organization, this charge shall be the lower of either: (a) a proportionate share of the DoD investment cost identified to the development of the technical data and technology involved; or (b) a fair market price for the technical data and technology involved based on an engineering analysis of demand or the potential monetary return on investment. For transfers to any non-U.S. contractor or other foreign customer, this charge will be the greater of the foregoing two alternatives. Accordingly, the lower domestic price shall



be applied only if the prospective domestic purchaser signs a written commitment to the Department of Defense that the technical data and technology shall not be transferred to any other party.

E. JOINT DOD COMPONENT DEVELOPMENT EFFORTS

DSAA shall designate a lead DoD Component to perform a consolidated calculation when appropriations of more than one DoD Component are involved in the NC investment of an MDE item.

F. "SPECIAL" RDT&E AND NONRECURRING PRODUCTION COSTS

1. The full amount of "special" RDT&E and nonrecurring production costs incurred for the benefit of particular customers shall be paid by those customers. However, when a subsequent purchaser requests the same specialized features that resulted from the added "special" RDT&E and nonrecurring production costs, a pro rata share of these costs may be paid by the subsequent purchaser and transferred to the original customer provided those special nonrecurring costs exceed \$5 million. The pro rata share may be a unit charge determined by the DoD Component as a result of distribution of the total costs divided by the total production. Such reimbursements shall not be transferred to the original customer if 8 years have elapsed since acceptance of DD Form 1513, "U.S. DoD Offer and Acceptance," by the original customer, unless otherwise authorized by DSAA. The USG shall not be charged any NC recoupment charge if it adopts the features for its own use or provides equipment containing such features under a U.S. Grant Aid or similar program.

2. For coproduction, codevelopment and cooperative development, or cooperative production agreements, the policy set forth in this Directive generally shall determine the allocation basis for recouping from the third party purchasers the investment costs of the participants. Such agreements shall provide for the application of the policies in this Directive to sales to third parties by any of the parties to the agreement and for the distribution of recoupments and technology charges among the parties to the agreement.

G. MUNITIONS EXPORT LICENSE APPLICATION REVIEWS

Military Departments shall comment routinely on nonrecurring cost recoupment candidacy as a part of their review of Munitions Export license applications. Sales that are obviously recoupment candidates should be identified to DSAA along with the recommendation that the exporting contractor be informed of the requirement for recoupment and that for specifics, the DoD plant representative should be contacted.

H. REPORTING NC RECOUPMENT COLLECTIONS

1. Funds collected for NC recoupment charges shall be disposed of in accordance with ASD(C) instructions.

2. DoD Components shall provide a quarterly report on the status of NC collections. The Reports Control Symbol is DSAA(Q)1112 (format at enclosure 5). The report shall be forwarded to the DSAA Comptroller within 45 days following the close of each fiscal quarter, with a copy furnished to the DASD(MS). Components shall maintain records of anticipated and actual NC charge collections

for the FMS case and known direct commercial sale. Data on direct commercial sales may be obtained from export licenses or from other information provided by DSAA.

**FORMAT FOR MDE CALCULATION**  
**(With Illustrative Entries)**

**ITEM DESCRIPTION:**

Identification No.:

Date Prepared \_\_\_\_\_  
DoD Component \_\_\_\_\_  
Preparer's Name, \_\_\_\_\_  
Job Series, and Grade \_\_\_\_\_

**PART A - NONRECURRING R&D INVESTMENT (NUMERATOR)**

	R&D Projects		Total
	X	Y	Z
Major Components			
Air Frame	80,000,000		\$80,000,000
Engine (JXX)		58,000,000	58,000,000
Radar			5,000,000
Avionics	1,000,000		1,000,000
Undistributed to Component	20,000,000		20,000,000
Air Vehicle			\$164,000,000

**PART B - NONRECURRING PRODUCTION INVESTMENT (NUMERATOR)**

	AF 1537	Contract	Contract	Total
	Sep 1, 1981	XX	ZZ	
Major Components				
Air Frame	5,000,000			\$ 5,000,000
Engine (JXX)	7,000,000			7,000,000
Radar	3,000,000			3,000,000
Avionics	5,000,000			5,000,000
Undistributed to Component	10,000,000			10,000,000
Air Vehicle				\$30,000,000

**PART C - PROJECTED UNITS (DENOMINATOR)**

	Source Documents				Commercial Est. by Contracting Officer	Totals
	DoD Quantities		MAP/FMS			
	FYDP	ADP	5 - Year Security Assistance Plans	ADP		
	Proc. Annex	Project 311	Project 311	Project 311		
Air Frame		1,500		850	\$2,350	
Engine (JXX)		3,050		2,500	7,550	
Radar		2,700		950	100	3,750
Avionics		1,500		850		2,350
Air Vehicle	1,500		750			2,250

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# PART D - COMPONENT NC

	<u>R&amp;D</u>	<u>Production</u>	<u>Total</u>	<u>Projected Units</u>	<u>Unit NC Recoupment Charge</u>
Major Components					
Air Frame	\$80,000,000	\$ 5,000,000	\$85,000,000	2,350	\$36,170 (1)
Engine (JXX)	58,000,000	7,000,000	65,000,000	7,550	8,609 (1)
Radar	5,000,000	3,000,000	8,000,000	3,750	2,133 (2)
Avionics	1,000,000	5,000,000	6,000,000	2,350	2,553 (2)
Undistributed	20,000,000	10,000,000	30,000,000	2,250	13,334 (3)

# PART E - SYSTEM NC CHARGE

## 1. Current Development Costs:

Air Frame (1 each system)	\$36,170
Engines (2 each system)	17,218
Radar (1 each system)	2,133
Avionics (1 each system)	2,553
Undistributed (allocated to end items)	13,334

## 2. GFM Development Costs:

ISS Cannon (2 each system)	500
HR X Radio (1 each system)	250
XM Bomb Sight (1 each system)	300
Access II Scat (1 each system)	<u>700</u>

TOTAL SYSTEM CHARGE \$73,158 (1)

## Notes

- (1) Unit NC recoupment charge calculation for MDE item must be submitted to DSAA for review and approval.
- (2) Unit NC recoupment charge for non-MDE item is added to DoD Component schedule of non-MDE charges and reported to the DASH(MS) for publication.
- (3) Undistributed systems' NC is recouped on end items.



RECOUPMENT OF NONRECURRING COSTS ON SALES OF USG ITEMS AND TECHNOLOGY

Department of the \_\_\_\_\_  
(\$ Thousands)

Reports Control Symbol: DSAA(Q)1112  
Report Preparation Date \_\_\_\_\_  
Report Cutoff Date \_\_\_\_\_

Case Designator (1)	Purchaser	Item	Quantity	Fiscal Year of Sale	Delivery Date (4)	Total Antici- pated NC Charge (2)(3)	Actual Collections		
							Amount Collected This Quarter	Amount Collected This Fiscal Year to Date	Cumulative Collections (5)

Part 1. Recoveries on USG sales to foreign governments and international organizations.

Part 2. Recoveries on direct sales to foreign governments, international organizations, and foreign commercial firms.

Part 3. Recoveries on sales to domestic commercial firms.

Notes:

- (1) Applicable to USG sales to foreign governments and international organizations. For direct sales, use the license number. For domestic sales, establish a "dummy" case number for control purpose. When a license number or "dummy" case number is shown in the case designator column, then the purchaser column should also reflect the name of the contractor who is liable for the payment.
- (2) When collection results from the sales of technology, rather than product, place a (T) after the anticipated charge.
- (3) Place an asterisk after charge when collection is completed.
- (4) For proposed or pending direct sales, place a "p" in this column.
- (5) Collections that are completed during the fiscal year will be dropped on the first quarterly report of the subsequent fiscal year.

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\* \* \*

Example 1  
RECOUPMENT OF NC CHARGES FOR MAJOR DEFENSE EQUIPMENT  
NEW MODELS DERIVED FROM EXISTING MODELS

FACTS:

1. MODEL	COST POOL	QUANTITY	OLD CHARGE
A(OLD)	\$500,000,000	1,000	\$500,000
B(NEW)	<u>100,000,000</u>	<u>1,000</u>	
	\$600,000,000	2,000	

2.	OLD MODEL	NEW MODEL
	1000 Parts	1200 Parts

(NOTE: 900 parts are common to both models)

Step 1: Determine commonality: Commonality is the percentage of the parts in the new model that are common to the old model.

$$\text{COMMONALITY} = \frac{900}{1,000} = 90\%$$

Step 2: Determine the amount of the old item cost pool which benefits both old and new items.

\$500,000,000	Old Item Cost Pool
<u>90%</u>	Commonality
\$450,000,000	Common Cost Pool

Step 3: Calculate NC charge for new item.

a. <u>Common Cost Pool</u>	divided by	<u>Benefiting Units</u>	
\$450,000,000		2,000	= \$225,000.00
b. <u>New Item Cost Pool which does not con- tain commonality with the old item</u>	divided by	<u>Benefiting Units</u>	
\$100,000,000		1,000	= \$100,000.00
UNIT CHARGE FOR NEW MODEL			<u>\$325,000.00</u>

Step 4: Determine cost pool of non-common items related to the old item.

a. <u>Old Item Cost Pool</u>	\$500,000,000
Less:	
b. <u>Common Cost Pool</u>	<u>450,000,000</u>
Remainder: Old item cost pool which does not contain commonality with the new item.	\$ 50,000,000

Step 5: Recalculate old item NC charge and determine if changed rates should be submitted to DSAA.

a. <u>Old Item Cost Pool</u>	divided by	<u>Benefiting Units</u>	
\$50,000,000		1,000	= \$50,000
b. <u>Common Cost Pool</u>	divided by	<u>Benefiting Units</u>	
\$450,000,000		2,000	= <u>\$225,000</u>

Recalculated charge for old item \$275,000

c. Comparison of previous old item NC charge with recalculated NC charge for old item.

<u>Recalculated Old Item Charge</u>	divided by	<u>Old Item Charge</u>	
\$275,000		\$500,000	= 55 percent, a 45 percent decrease and \$225,000 NC Unit Charge decrease

#### ACTION REQUIRED

#### Step 6:

- a. Submit request to Director, DSAA for consideration of change of NC rate on old item in accordance with paragraph B.3.b. of the basic directive.
- b. Prepare DSAA package because the change in the NC rate in Step 5 exceeds 30 percent and the unit charge decreases by more than \$50,000.



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Step 7: Proof: Verify that cost pool has been fully allocated.

Old Item 1,000 QTY X \$275,000 (Old Item Charge)	=	\$275,000,000
New Item 1,000 QTY X \$325,000 (New Item Charge)	=	<u>325,000,000</u>
Total		\$600,000,000

Cost Pool

Old Item	\$500,000,000
New Item	<u>100,000,000</u>
	600,000,000

Difference      -0-

NOTE: The proof is designed only to show that costs are evenly distributed to all units, and the fact that there may have been previous charges at the old rate is to be disregarded for purposes of the calculation.

Example 2  
 RECOUPMENT OF NC CHARGES FOR MAJOR DEFENSE EQUIPMENT  
 NEW MODELS DERIVED FROM EXISTING MODELS

FACTS:

1. <u>MODEL</u>	<u>COST POOL</u>	<u>QUANTITY</u>	<u>OLD CHARGE</u>
A(OLD)	\$400,000,000	1,000	\$400,000
B(NEW)	<u>200,000,000</u>	<u>2,500</u>	
	\$600,000,000	3,500	

2.	<u>OLD MODEL</u>	<u>NEW MODEL</u>
	1000 Parts	1200 Parts

(NOTE: 600 parts are common to both models)

Step 1: Determine commonality: Commonality is the percentage of the parts in the new model that are common to the old model.

$$\text{COMMONALITY} \quad \frac{600}{1,000} = 60\%$$

Step 2: Determine the amount of the old item cost pool which benefits both old and new items.

\$400,000,000	Old Item Cost Pool
60%	Commonality
<u>\$240,000,000</u>	Common Cost Pool

Step 3: Calculate NC charge for new item.

a. <u>Common Cost Pool</u>	divided by	<u>Benefiting Units</u>	
\$240,000,000		3,500	= \$68,571
b. <u>New Item Cost Pool which does not con- tain commonality with the old item</u>	divided by	<u>Benefiting Units</u>	
\$200,000,000		2,500	= \$80,000
UNIT CHARGE FOR NEW MODEL			<u>\$148,571</u>

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Step 4: Determine cost pool of non-common items related to the old item.

a. Old Item Cost Pool \$400,000,000

Less:

b. Common Cost Pool \$240,000,000

Remainder: Old item cost pool which does \$160,000,000  
not contain commonality with the new item

Step 5: Recalculate old item NC charge and determine if changed rates should be submitted to DSAA.

a. <u>Old Item Cost Pool</u>	divided	<u>Benefiting</u>	
	by	<u>Units</u>	
\$160,000,000		1,000	= \$160,000

b. <u>New Common Cost Pool</u>	divided		
	by		
\$240,000,000		3,500	= <u>\$68,571</u>

Recalculated charge for old item \$228,571

c. Comparision of previous old item NC change with recalculated NC charge for old item.	divided by	<u>Old Item Charge</u>
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Recalculated  
Old Charge

\$228,571

\$400,000 = 57 percent, a 43 percent decrease and \$171,429 NC Unit charge decrease.

ACTION:

Step 6: Prepare DSAA package because the change in the NC rate in Step 5 exceeds 30% and the unit charge decreases more than \$50,000.

Step 7: Proof: Verify that cost pools have been fully allocated.

Old Item 1,000 QTY X \$228,571 (Old item charge)	=	\$228,571,000
New Item 2,500 QTY X \$148,571 (New item charge)	=	371,430,800
		<u>\$600,001,800</u>

Step 7: (Continued)

	Rounded to:
Total	\$600,000,000
	COST POOL
Old Item	\$400,000,000
New Item	<u>200,000,000</u>
	\$600,000,000
Difference	-0-

NOTE: The proof is designed only to show that costs are evenly distributed to all units. The fact that there may have been previous charges at the old rate is to be disregarded for purposes of calculation.

**Action Responsibilities of Department of the Navy Organizations**

DODD 2140.2  
Reference

**1. Navy International Programs Office (Navy IPO)**

(R)

- a. Validate NC cost on major defense equipment (MDE) items and recommend MDE item charges to the Defense Security Assistance Agency (DSAA), in coordination with other concerned organizations. E5b
- b. Provide approved non-MDE and technology charges to the Deputy Assistant Secretary of Defense (Management Systems) (DASD(MS)) and to applicable Department of the Navy organizations and contractors. E5d and reference (a), 70205B and Table 702-11
- c. Disseminate for interim use approved MDE and non-MDE NCs to Department of the Navy organizations. Reference (a), Appendix D
- d. Notify DSAA of candidates for NC recoupment identified from Munitions Export License reviews. Encl (2), G
- e. Charge the full amount of "special" RDT&E to customers by including estimated costs in United States Department of Defense Offer and Acceptance (LOA) (DD Form 1513). Encl (2), F1
- f. Submit quarterly report (RCS: DSAA(Q)1112(7000)) of anticipated and actual NC recoupment collections to DSAA, with copies provided to other concerned organizations. E5h; Encl (2), H2; Encl (5)
- g. Submit NC cost waiver requests to DSAA or Director, Defense Research and Engineering (DDRE) as applicable, after coordinating with concerned organizations. G2

**2. Program Managers**

- a. Accumulate cost pools to determine if threshold limits are met for cost recovery when FMS or commercial sales are anticipated. These cost pools should be established as early in the program as possible. Encl (2), A2
- b. Request Defense Contract Audit Agency (DCAA), via Navy IPO, to determine if a commercial item was developed in full or in part with DOD contract funds. Encl (2), B5a (R)

Enclosure (2)

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- c. Develop NC charge on MDE item and submit documentation to Navy IPO. Determine charge for non-MDE item and submit data to Navy IPO. E5a and B, Encl (2); and E5c and C, Encl (2)
  - d. Develop charges for technology sales, i.e., sales of technical data packages (TDPs), software and other technology transfers, and submit data to Navy IPO. D, Encl (2)
  - e. Consult with contractors to determine commercial quantities, if necessary, for MDE rate calculations. Encl (2), B2
  - f. Recalculate NC recoupment charge when a MDE model change occurs. Encl (2), B3b; and Encl (6)
  - g. Review MDE charges annually and recalculate, if significant changes have occurred. Review non-MDE NC charges annually, and determine revised charges per guidance in paragraph 70205J, reference (a). Provide data and determinations to Navy IPO. Encl (2), A4a
  - h. Calculate charge based on commonality of commercial items derived from DOD MDE items and components and provide to Navy IPO. Encl (2), B5
  - i. Insure that components are not purchased separately to circumvent payment of NC charges. Encl (2), B3c
  - j. If possible, obtain customer participation in Component Improvement Programs, when applicable, in coordination with Navy IPO. Encl (2), C3b
  - k. Develop cost estimates to charge the full amount of "special" RDT&E to customers, and insure that other purchasers, when applicable, are charged the unit charge for features resulting from "special" RDT&E and the customer is reimbursed. Encl (2), F1
  - l. Review Munitions Export Licenses and notify Navy IPO of sales that are obvious candidates for NC recoupment. Encl (2), G
- 3. **Procurement Contracting Officers (PCOs).** Insert prescribed DFARS clause in contracts. E5e; and Encl (2), A6
- 4. **Administrative Contracting Officers (ACOs)**
  - a. Initiate development of NC by notifying Navy IPO when there is potential for commercial sales of an item. Encl (2), A7

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b. Enforce application of contract clauses, e.g., insure that contractors provide timely information to the DoD on commercial sales of DoD developed items. E5f

c. Notify contractors of appropriate charge on commercial sales and provide payment instructions to contractor. Encl (2), A7

#### 5. Case Administering Offices (CAOs)

a. Apply NC charges/technology charges on government sales of articles, technical data packages (TDPs), etc. E5g; Encl (2), A1, B1, C4, D1,2,3

b. Deposit NC charge collections to account prescribed in the NAVCOMPT Manual. E5g and Encl (2), A8; NAVCOMPT Manual 032103-9.1 (1)

#### 6. Navy International Logistics Control Office (NAVILCO)

a. Deposit NC charge amounts paid by contractors to account prescribed in the NAVCOMPT Manual. E5g and Encl (2), A8; NAVCOMPT Manual 032103-9.1 (1)

b. When applicable, reimburse customer for "special" RDT&E recoveries from other customers. Encl (2), F1

c. Prepare quarterly report of anticipated and actual NC recoupment collections and provide to Navy IPO, with copies provided to other concerned organizations. E5h; and Encl (2), H2 and Encl (5) (R)

d. Monitor contractor payments on commercial sales and notify the contractor when payments appear to be overdue. E5f